



Billing Code 4310–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–EC–2013–N297]

[FVHC98120300940–XXX–FF03E16000]

Notice of Intent to Prepare a Programmatic Environmental Impact Statement for the Riverwide Restoration Plan; Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) are providing this notice of intent to prepare an Environmental Impact Statement for Kalamazoo River restoration pursuant to National Environmental Policy Act (NEPA) regulations. USFWS, NOAA, and the State

of Michigan (collectively referred to as the “Trustees”) are also providing notice of their efforts to plan restoration projects authorized by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site). The Trustees will prepare a programmatic environmental impact statement (PEIS) to identify and evaluate the environmental impacts associated with restoration actions that may be implemented to compensate for injuries to natural resources and associated services. The public is invited to provide comments to assist the Trustees in the development of a restoration plan (RP). This notice explains the scoping process the Trustees will use to gather input from the public.

DATES: Written comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Written comments for the Trustees to consider should be sent to Lisa Williams, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road East Lansing, MI 48823. Comments may also be submitted electronically to *kzoorivernrda@fws.gov*, with “Kalamazoo River RP/PEIS Scoping Comment” in the subject line.

FOR FURTHER INFORMATION CONTACT: Lisa Williams, USFWS, by email at *lisa_williams@fws.gov* or by phone at (517) 351-8324, or Terry Heatlie, NOAA Restoration Center, by email at *Terry.Heatlie@noaa.gov* or by phone at (734) 741-2211.

SUPPLEMENTARY INFORMATION: Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 et seq., parties responsible for releasing hazardous substances into the environment are liable both for the costs of responding to the release (by cleaning up, containing, or otherwise remediating the release) and for damages arising from injuries to publicly owned or managed natural resources resulting from the release. CERCLA's Natural Resource Damage Assessment (NRDA) regulations (43 C.F.R. 11) prescribe the process of assessing the nature and extent of the resulting injury, destruction, or loss of natural resources and the services they provide. Carrying out of the NRDA process also includes determining the compensation required to make the public whole for such injuries, destruction, or loss. CERCLA authorizes certain Federal and State agencies and Indian tribes to act on behalf of the public as Trustees for affected natural resources. Under CERCLA, these agencies and tribes are authorized to assess natural resource injuries and to seek compensation, referred to as damages, from responsible parties, including the costs of performing the damage assessment. The Trustees are required to use recovered damages for the following purposes only: to restore, replace, or acquire the equivalent of the injured or lost resources and services.

The U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) are providing this notice of intent to prepare an Environmental Impact Statement for Kalamazoo River restoration pursuant to National Environmental Policy Act (NEPA) regulations. The NEPA process consists of a set of fundamental objectives that include interagency coordination and cooperation, and public participation in the planning and development of projects. NEPA requires Federal agencies to conduct environmental reviews of proposed actions to consider the potential impacts on the environment. NOAA, USFWS, and the State of Michigan (collectively referred to as the “Trustees”) are also providing notice of their efforts to plan restoration projects to compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site). The Trustees seek damages from potentially responsible parties (PRPs) to restore, rehabilitate, replace, or acquire the equivalent of natural resources and services injured by the release of hazardous substances. The Trustees will prepare a programmatic environmental impact statement (PEIS) to identify and evaluate the environmental impacts associated with restoration actions that may be implemented to compensate for injuries to natural resources and associated services. The public is invited to provide comments to assist the Trustees in the development of a restoration plan (RP). This notice explains the scoping process the Trustees will use to gather input from the public.

The Trustees have engaged the public directly in several ways since initiating the Kalamazoo River Natural Resource Damage Assessment (NRDA) with the release of a

Preassessment Screen and a Stage I Assessment Plan in 2000, and have also gathered scoping information from other planning processes in which the public has been engaged. Based on these previous interactions, the Trustees do not plan to hold additional scoping meetings during development of the draft RP/PEIS. As part of the Stage I NRDA process, the Trustees met with the public, solicited restoration project ideas, spoke directly with individuals and organizations like the Kalamazoo River Protection Association and the Kalamazoo River Watershed Council, provided findings at a public meeting, and made the report available for public review and comment (MDEQ et al. 2005; *see* Stage I Assessment Report for the Kalamazoo River Environment, Volume 2, Chapter 4, available at <http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver>). The Stage I Assessment Report provides an overview of restoration planning, criteria for evaluating potential restoration alternatives, and examples of potential restoration actions for the Kalamazoo River Environment. The Draft RP/PEIS will incorporate and build upon existing restoration planning information developed in the Stage I Assessment Report. In addition, the Trustees have participated in numerous public meetings hosted by the Michigan Department of Environmental Quality and the U.S. Environmental Protection Agency related to the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site. Most recently, the Trustees released a Restoration Plan and Environmental Assessment (RP/EA) for Portage Creek and Operable Unit 1 (OU1), which is available on the USFWS website at:

<http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver>

and on the NOAA website at:

http://www.darrp.noaa.gov/greatlakes/kalamazoo/pdf/2013.08.OU1.RPEA_fnl_sm.pdf.

The Trustees solicited public comment on the Draft OU1 RP/EA during the spring of 2012 and met with the public on May 1, 2012. In doing so, the Trustees received updated input from individuals, the Kalamazoo River Watershed Council, Calhoun Conservation District, Kalamazoo Nature Center, and the Kalamazoo River Cleanup Coalition. These interactions have informed the scope of restoration planning and have helped identify significant issues to be evaluated in the RP/PEIS.

Industrial activities in the Kalamazoo area have released PCBs into the environment. Recycling of carbonless copy paper at several area paper mills was the primary source of PCB release. Waste from the recycling of such paper conducted at Kalamazoo-area paper mills also contained PCBs, and the waste was disposed of by several methods that resulted in releases of PCBs into the environment. These PCBs have contaminated sediments, the water column, and biota in and adjacent to downstream sections of Portage Creek, the Kalamazoo River, and Lake Michigan.

Based on the risks that PCBs pose to the environment and to human health, the U.S. Environmental Protection Agency (EPA) listed the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site on the National Priorities List on August 30, 1990. PCBs are listed as hazardous substances under CERCLA. EPA and the Michigan Department of Environmental Quality currently describe the Site being addressed by the Superfund remedial investigation as including: (1) five disposal areas and six paper mill properties; (2) a 3-mile stretch of Portage Creek from Cork Street in the City of Kalamazoo to where the creek meets the Kalamazoo River; and (3) an approximately 80-

mile stretch of the Kalamazoo River, from Morrow Dam to Lake Michigan, with adjacent floodplains, wetlands, and in-stream sediments.

As defined in the Stage 1 Assessment Report (MDEQ et al. 2005; available at <http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver>), the Trustees are using the term Kalamazoo River Environment (KRE) to represent the entire natural resource damage assessment area. The KRE encompasses the area being addressed by the Superfund remedial investigations for the site's operable units, along with any area where hazardous substances released at or from the Superfund site have come to be located, and areas where natural resources or the services they provide may have been affected by the Site-related hazardous substances releases (MDEQ et al. 2005).

As restoration planning proceeds, the Trustees expect to have opportunities to settle natural resource damage claims with willing parties. The RP/PEIS will provide an ecological framework, with public input, to maximize the benefits of specific restoration projects to the affected resources in the KRE that might be included in or funded by settlements. The RP/PEIS will provide criteria and guidance for Trustees to use in selecting feasible restoration projects. In developing the document, the Trustees will also incorporate public input in the development and evaluation of restoration alternatives, including general categories of potential restoration actions as well as a few specific potential projects.

NEPA, 42 U.S.C. 4321 et seq., and the Council on Environmental Quality regulations implementing NEPA under 40 CFR 1500 et seq., apply to restoration actions by Federal trustees. The purpose of the scoping process is to identify the concerns of the affected public, Federal agencies, States, and Indian tribes; involve the public early in the

decision making process; facilitate an efficient EA/EIS preparation process; define the issues and alternatives that will be examined in detail; and save time by ensuring that draft documents adequately address relevant issues. The scoping process reduces paperwork and delay by ensuring that important issues are addressed early.

In compliance with 40 CFR 1505 et seq., the Trustees will include in the NRDA Administrative Record (Record) documents that the Trustees rely upon during the development of the RP and PEIS. The hard copy Record is on file at MDEQ (contact Judith Alfano at (517) 373-7402 or alfanoj@michigan.gov), and selected documents from the Record are also accessible at the following website:

<http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver>. A draft RP/PEIS document is anticipated to be released for public comment by Fall 2014. Specific dates and times for events will be publicized when scheduled.

Public Comments

Please send comments in reference to: (a) developing the draft RP/PEIS; (b) suggestions for additional restoration actions beyond those described in the 2005 Stage I Assessment Report and the Portage Creek/OU1 RP/EA; and (c) considerations for potential impacts of those actions to the human environment. Please see the **ADDRESSES** section for additional submission information.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal

identifying information from public review, we cannot guarantee that we will be able to do so.

**Thomas O. Melius,
Regional Director,
Midwest Region,
U.S. Fish and Wildlife Service.**

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